

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**FIRST MAGNUS FINANCIAL  
CORPORATION,**

2:07-CV-132- JCM (PAL)

Plaintiff,

Date: N/A  
Time: N/A

V.

TYSON RONDEAU and JANE DOE  
RONDEAU, Husband and Wife, et al.,

#### Defendants.

## ORDER

Presently before the court is plaintiff First Magnus Financial Corporation's motion for oral argument. Defendants have not filed a response.

19 This court initially dismissed plaintiffs' suit on November 23, 2009 pursuant to Federal Rule  
20 of Civil Procedure 41(b) and local rule of the District of Nevada 41-1. (Doc. #248). On May 24,  
21 2011, the Ninth Circuit issued its mandate reversing and remanding this court's dismissal to  
22 determine whether, under the factors outlined in *Henderson v. Duncan*, 779 F.2d 142, 1423 (9th Cir.  
23 1986), the matter should be dismissed.

24 The parties' original briefs concerning the motion to dismiss pursuant to Rule 41(b) did not  
25 address the five *Henderson* factors. Plaintiff requests this court hold a hearing to enable the parties  
26 the opportunity to argue the applicability of the *Henderson* factors.

1 || Good cause appearing,

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, plaintiff First Magnus  
3 Financial Corporation's motion for oral argument (doc. #271) be, and the same hereby is,  
4 GRANTED.

5 IT IS FURTHER ORDERED that this court's order dismissing the complaint with prejudice  
6 (doc. #248) is VACATED and a hearing on the motion to dismiss shall be held on November 1, 2011  
7 at 10:30 a.m.

8 IT IS FURTHER ORDERED that the parties submit supplemental briefs explaining  
9 their position on the applicability of the *Henderson* factors no later than seven calendar days prior  
10 to the hearing.

11 || DATED this 4th day of October, 2011.

Xem C. Mahan  
**UNITED STATES DISTRICT JUDGE**